

JCR

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

FILED

2005 JAN -3 A 9:17

U.S. DISTRICT COURT
EASTERN DIST. TENN.

BY _____ DEPT. CLERK

RUSTIN G. JACKSON,

Plaintiff,

vs.

**STATE OF TENNESSEE,
COUNTY OF CAMPBELL,
CITY OF JACKSBORO,
DUSTIN ROSE and BILLY MARLOW,
in their individual capacities, et al.,**

Defendants.

**No. 3:04-CV-344
Varlan/Shirley**

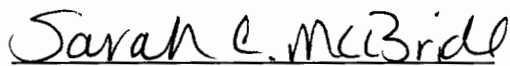
**MOTION TO DISMISS
DEFENDANTS STATE OF TENNESSEE AND RICK WOODWARD**

COME NOW the Defendants, the State of Tennessee and State Trooper Rick Woodward, and move, pursuant to Fed. R. Civ. P. 12(b)(6), that the action against them be dismissed for failure to state a claim upon which relief can be granted. The Defendants aver that the Eleventh Amendment bars any claim against the State of Tennessee and because Plaintiff's Complaint does not adequately notify Defendant Woodward which capacity he has been sued in, he is considered sued in his official capacity only and, thus, any federal claim for monetary damages against him is also barred by the Eleventh Amendment. Moreover, the Eleventh Amendment bars any pendent state law claims against Defendant Woodward acting in his official capacity and no cause of action exists for violations of the Tennessee Constitution. Lastly, the Plaintiff has no standing to seek equitable relief.

In support of this motion, the Defendants submit a contemporaneously filed
Memorandum of Law.

Respectfully submitted,

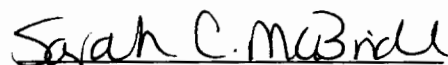
PAUL G. SUMMERS
Attorney General and Reporter


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P.O. Box 20207
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(615) 532-2500

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded by first-class mail, postage prepaid, this the 29th day of December, 2004, to:

Rustin Jackson
108 Chapman Lane
Jacksboro, TN 37757


SARAH C. MCBRIDE
Assistant Attorney General